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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-61

13 **STEPHANE RUSSO**  
14 **1756 Essex Street, #104**  
**San Diego, CA 92103**

**DEFAULT DECISION AND ORDER**

15 **Registered Nurse License No. 612546**

[Gov. Code, §11520]

16 Respondent.

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18 **FINDINGS OF FACT**

19 1. On or about July 18, 2012, Complainant Louise R. Bailey, M.Ed., R.N., in her official  
20 capacity as the Interim Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs, filed Accusation No. 2013-61 against Stephane Russo (Respondent) before the  
22 Board of Registered Nursing. (Accusation attached as Exhibit A.)

23 2. On or about January 30, 2003, the Board of Registered Nursing (Board) issued  
24 Registered Nurse License No. 612546 to Respondent. The Registered Nurse License was in full  
25 force and effect at all times relevant to the charges brought in Accusation No. 2013-61 and will  
26 expire on October 31, 2012, unless renewed.

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1           3.    On or about July 18, 2012, Respondent was served by Certified Mail copies of the  
2   Accusation No. 2013-61, Statement to Respondent, Request for Discovery, Notice of Defense (2  
3   copies), and Government Code sections 11507.5, 11507.6 and 11507.7 at Respondent's address of  
4   record which, pursuant to California Code of Regulations, title 16, section 1409.1, is required to  
5   be reported and maintained with the Board. Respondent's address of record was and is:  
6   1756 Essex Street, #104, San Diego, CA 92103.

7           4.    Service of the Accusation was effective as a matter of law under the provisions of  
8   Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
9   124.

10          5.    On or about August 2, 2012, the Board received the signed certified mail return  
11   receipt card showing the Accusation and related documents were received.

12          6.    Government Code section 11506 states, in pertinent part:

13               (c) The respondent shall be entitled to a hearing on the merits if the respondent  
14               files a notice of defense, and the notice shall be deemed a specific denial of all parts  
15               of the accusation not expressly admitted. Failure to file a notice of defense shall  
16               constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
17               may nevertheless grant a hearing.

18          7.    Respondent failed to file a Notice of Defense within 15 days after service upon him  
19   of the Accusation, and therefore waived his right to a hearing on the merits of Accusation  
20   No. 2013-61.

21          8.    California Government Code section 11520 states, in pertinent part:

22               (a) If the respondent either fails to file a notice of defense or to appear at the  
23               hearing, the agency may take action based upon the respondent's express admissions  
24               or upon other evidence and affidavits may be used as evidence without any notice to  
25               respondent.

26          9.    Pursuant to its authority under Government Code section 11520, the Board finds  
27   Respondent is in default. The Board will take action without further hearing and, based on the  
28   relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
taking official notice of all the investigatory reports, exhibits and statements contained therein on  
file at the Board's offices regarding the allegations contained in Accusation No. 2013-61, finds

1 that the charges and allegations in Accusation No. 2013-61, are separately and severally, found to  
2 be true and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and  
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
5 and Enforcement is \$1,000.00 as of September 26, 2012.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Stephane Russo has subjected  
8 his Registered Nurse License No. 612546 to discipline.

9 2. The agency has jurisdiction to adjudicate this case by default.

10 3. The Board of Registered Nursing is authorized to revoke Respondent's Registered  
11 Nurse License based upon the following violations alleged in the Accusation which are supported  
12 by the evidence contained in the Default Decision Evidence Packet in this case:

13 a. Violation of Business and Professions Code sections 490 and 2761, subdivision (f), in  
14 that in the case entitled *People v. Stephane Russo*, Respondent was convicted, on his plea of  
15 guilty, of violating Health and Safety Code sections 11379(a) (possession for sale of a controlled  
16 substance, to wit: methamphetamine), and 11377(a) (possession of a controlled substance, to wit:  
17 methamphetamine), a felonies..

18 b. Violation of Business and Professions Code section 2761, subdivision (a), on the  
19 grounds of unprofessional conduct as defined by Code section 27861, subdivision (a), in that on  
20 or about January 11, 2011, he possessed controlled substances not prescribed to him, as detailed  
21 at paragraph 3a., above, which is incorporated here by reference.

22 c. Violation of Business and Professions Code section 2761, subdivision (a), on the  
23 grounds of unprofessional conduct as defined by Code section 2762(c), in that on or about  
24 March 30, 2011, he was convicted of criminal offenses involving the possession for sale of a  
25 controlled substance and possession of controlled substance, as detailed at paragraph 3a. above,  
26 and incorporated here by reference.

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ORDER

IT IS SO ORDERED that Registered Nurse License No. 612546, heretofore issued to Respondent Stephane Russo, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 11, 2013.  
It is so ORDERED December 12, 2012

  
\_\_\_\_\_  
FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

70625139.DOC  
DOJ.Matter ID:SD2012703164

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 JAMES M. LEDAKIS, State Bar No. 132645  
Supervising Deputy Attorney General  
4 110 West "A" Street, Suite 1100  
San Diego, CA 92101  
5 P.O. Box 85266  
San Diego, CA 92186-5266  
6 Telephone: (619) 645-2105  
Facsimile: (619) 645-2061  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2013-61**

13 **STEPHANE RUSSO, RN**  
14 **1756 Essex Street, #104**  
15 **San Diego, CA 92103**

**ACCUSATION**

16 **Registered Nurse License No. 612546**

17 Respondent.

18 Complainant alleges:

**PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
21 of Consumer Affairs.

22 2. On or about January 30, 2003, the Board of Registered Nursing issued Registered  
23 Nurse License Number 612546 to Stephane Russo (Respondent). The Registered Nurse License  
24 was in full force and effect at all times relevant to the charges brought herein and will expire on  
25 October 31, 2012, unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license.

6. Section 2811(b) states:

Each such license not renewed in accordance with this section shall expire but may within a period of eight years thereafter be reinstated upon payment of the biennial renewal fee and penalty fee required by this chapter and upon submission of such proof of the applicant's qualifications as may be required by the board, except that during such eight-year period no examination shall be required as a condition for the reinstatement of any such expired license which has lapsed solely by reason of non-payment of the renewal fee. After the expiration of such eight-year period the board may require as a condition of reinstatement that the applicant pass such examination as it deems necessary to determine his present fitness to resume the practice of professional nursing.

## STATUTORY PROVISIONS

7. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee."

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1        8.    Section 490 of the Code provides, in pertinent part, that a board may suspend or  
2        revoke a license on the ground that the licensee has been convicted of a crime substantially  
3        related to the qualifications, functions, or duties of the business or profession for which the  
4        license was issued.

5        9.    Section 493 of the Code states:

6                Notwithstanding any other provision of law, in a proceeding conducted by a  
7        board within the department pursuant to law to deny an application for a license or  
8        to suspend or revoke a license or otherwise take disciplinary action against a person  
9        who holds a license, upon the ground that the applicant or the licensee has been  
10       convicted of a crime substantially related to the qualifications, functions, and duties  
11       of the licensee in question, the record of conviction of the crime shall be conclusive  
12       evidence of the fact that the conviction occurred, but only of that fact, and the board  
13       may inquire into the circumstances surrounding the commission of the crime in  
14       order to fix the degree of discipline or to determine if the conviction is substantially  
15       related to the qualifications, functions, and duties of the licensee in question.

16               As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
17       'registration.'

18       10.   Section 2761 of the Code states:

19               The board may take disciplinary action against a certified or licensed nurse  
20       or deny an application for a certificate or license for any of the following:

21               (a) Unprofessional conduct, which includes, but is not limited to, the  
22       following:

23               ...

24               (f) Conviction of a felony or of any offense substantially related to the  
25       qualifications, functions, and duties of a registered nurse, in which event the record  
26       of the conviction shall be conclusive evidence thereof.

27               ....

28       11.   Section 2762 of the Code states:

              In addition to other acts constituting unprofessional conduct within the  
              meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a  
              person licensed under this chapter to do any of the following:

              (a) Obtain or possess in violation of law, or prescribe, or except as directed  
              by a licensed physician and surgeon, dentist, or podiatrist, administer to himself or  
              herself, or furnish or administer to another, any controlled substance as defined in  
              Division 10 (commencing with Section 11000) of the Health and Safety Code or  
              any dangerous drug or dangerous device as defined in Section 4022.

              ....

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

12. Business and Professions Code section 4060 states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer . . .

### REGULATORY PROVISIONS

13. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

14. California Code of Regulations, title 16, section 1445(b), states:

When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation,

restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

### **COST RECOVERY**

15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

### **DRUGS**

16. Methamphetamine is a Schedule II controlled substance as designated by Health and Safety Code section 11055(d)(2), and is a dangerous drug pursuant to Business and Professions Code section 4022.

### **FIRST CAUSE FOR DISCIPLINE**

**(March 30, 2011 Criminal Conviction for Possession for Sale of a Controlled Substance and Possession of a Controlled Substance – Methamphetamine – on January 11, 2011)**

17. Respondent is subject to disciplinary action under Code sections 490 and 2761(f) of the Code in that Respondent was convicted of a crime substantially related to the qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

18. On or about March 30, 2011, in a criminal proceeding entitled *People of the State of California v. Stephane Russo*, in the San Diego County Superior Court, Central Division, in Case No. CD231896, Respondent was convicted on his plea of guilty of violating Health and Safety Code sections 11379(a) (possession for sale of a controlled substance, to wit: Methamphetamine), a felony, and 11377(a) (possession of a controlled substance, to wit: methamphetamine), a felony.

19. As a result of the above conviction, the Court ordered that Respondent serve two days in the county jail, with two days credit for time served, and placed Respondent on summary probation for three years. Respondent was also ordered, among other things, to pay \$2,054 in

1 fines and fees, serve 10 days in the Public Service Program, obey all laws, register per Health and  
2 Safety Code section 11590, not possess firearms, ammunition or deadly weapons, comply with  
3 curfew as directed by his probation officer, provide true name, address and date of birth to law  
4 enforcement, obtain consent from probation officer prior to leaving San Diego County, and seek  
5 and maintain full-time employment, schooling or a full-time combination. Respondent was  
6 further ordered to attend and successfully complete a substance abuse program as directed by his  
7 probation officer, attend "self-help" meetings, submit to chemical test of blood, breath or urine as  
8 directed by probation officer or law enforcement, not be in places where alcohol is the main item  
9 for sale, complete a program of residential treatment as directed by his probation officer, and not  
10 use or possess any controlled substances without a valid prescription.

11 20. The circumstances that led to Respondent's conviction are that on or about January 4,  
12 2011, San Diego Police Department Mid City Narcotics Team 10 detectives were investigating  
13 the sales of controlled substances, including methamphetamine. Detectives found an  
14 advertisement on the website [www.craigslist.org](http://www.craigslist.org) which stated that the person posting the  
15 advertisement was "blowing clouds" (slang for smoking methamphetamine) and that he had extra.  
16 The person who posted the advertisement was identified as Respondent. Detectives made contact  
17 with Respondent via e-mail in an undercover capacity on four separate occasions to arrange for  
18 the purchase of methamphetamine. Respondent agreed to sell undercover officers a "T" (slang  
19 for a teener 1/16th of an ounce of methamphetamine) for \$140. The undercover detective asked  
20 Respondent to meet at the Pep Boys located at 3550 El Cajon Boulevard and Respondent agreed  
21 to meet the undercover officer at 1830 hours.

22 21. On January 11, 2011, the San Diego Police Department's Mid-City Narcotic Street  
23 Team 10 conducted an undercover "buy/bust" operation in the area of 3550 El Cajon Boulevard,  
24 San Diego, CA. An undercover police detective, dressed in plain clothes, was sent to the area  
25 with pre-recorded U.S. currency "buy" money. Additional members of the undercover team were  
26 assigned to monitor the undercover officer. Undercover officers observed the undercover  
27 detective make contact with and successfully purchase controlled substances from a white male  
28 (later identified as Respondent) in the parking lot of Pep Boys located at 3550 El Cajon

1 Boulevard and directed the arrest of the Respondent. During the purchase of the  
2 methamphetamine, Respondent told the undercover detective that it was "good" stuff and that  
3 Respondent bought a lot and had extra to sell. Respondent told the undercover detective that the  
4 undercover detective could purchase more methamphetamine from Respondent in the future, that  
5 Respondent would eventually connect the undercover detective with his source, and warned the  
6 undercover detective not to smoke too much of it because it was addictive. Respondent left and  
7 was observed getting back into his black vehicle (Honda Civic, CA License plate 5JBF951).  
8 Officers initiated a traffic stop and contacted the driver of the Honda Civic, who was identified as  
9 Respondent. Respondent was directed to exit his vehicle and, once Respondent complied, was  
10 placed under arrest and handcuffed. A search of Respondent's person pursuant to the arrest  
11 revealed a wallet with a zipper in the front right pocket of the hooded sweatshirt he was wearing.  
12 Inside the wallet officers located six folded \$20 bills. The \$20 bills recovered were compared  
13 with the pre-recorded \$20 bills and the bills matched the serial numbers of the pre-recorded "buy"  
14 money. The undercover detective that purchased the methamphetamine from Respondent later  
15 advised arresting officers that the detective paid Respondent \$120 for the methamphetamine  
16 instead of the \$140 originally agreed on. Respondent was transported to the Mid-City Substation  
17 where he was read his Miranda rights. Detectives sealed the crystalline substance sold to them by  
18 Respondent in an envelope and impounded. Respondent was booked in the county jail.

## 19 SECOND CAUSE FOR DISCIPLINE

### 20 **(Unprofessional Conduct – Obtain or Possess Controlled Substances)**

21 22. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),  
22 on the grounds of unprofessional conduct as defined by Code section 2762, subdivision (a), in  
23 that on or about January 11, 2011, he possessed controlled substances not prescribed to him, as  
24 set forth in paragraphs 17-21, above, which are incorporated here by reference.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Conviction of a Drug Related Crime)**

3 23. Respondent is subject to disciplinary action under Code section 2761, subdivision (a),  
4 on the grounds of unprofessional conduct as defined by Code section 2762, subdivision (c), in  
5 that on or about March 30, 2011, he was convicted of criminal offenses involving the possession  
6 for sale of a controlled substance and possession of a controlled substance, as set forth in  
7 paragraph 17-21, above, which is incorporated here by reference.

8 **PRAYER**


9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
10 and that following the hearing, the Board of Registered Nursing issue a decision:

11 1. Revoking or suspending Registered Nurse License Number 612546, issued to  
12 Stephane Russo;

13 2. Ordering Stephane Russo to pay the Board of Registered Nursing the reasonable costs  
14 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
15 section 125.3;

16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: July 18, 2012

18 for   
19 LOUISE R. BAILEY, M.ED., RN  
20 Interim Executive Officer  
21 Board of Registered Nursing  
22 Department of Consumer Affairs  
23 State of California  
24 Complainant

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